

### **REMARKS/ARGUMENTS**

Claims 1, 2 and 7 - 11 are pending in the application. Of these claims, Claim 12 is withdrawn from consideration as a result of a restriction requirement by the Examiner. Claim 10 stands rejected, and is currently amended.

Claim 11 stands allowed as set forth in paragraph 8, page 7 of the August 20, 2009 official communication so long as it includes all of the limitations of previously amended Claim 10. Claim 11 has been amended consistent with that requirement.

### **(Claim Election/Restrictions)**

The examiner has required restriction under 35 U.S.C. 121 of Claim 12 on the grounds that invention I and II are separate and distinct as product and process of use. The Applicant elects invention I, with traverse, encompassing Claims 1, 2 and 7 – 11. The Examiner states that in the instant case, the product as claimed can be used in a materially different process of using that product; for example: “the product can be preset to precise height without any need for adjustment.” That applicant respectfully asserts that there is no material difference in the alternative process as stated by the Examiner. Whether adjusting the set screw while the panel is in place on the pedestal head or preset prior to placing the floor panel on the pedestal support head, the set screw is adjusted to the same setting in order to accomplish the same result. The material element for using the claimed apparatus is therefore operating the set screw in order to set the retrofit application of the floor panel in relation to an existing floor.

### **(Claim Rejections)**

The Examiner has rejected Claim 10 under 35 U.S.C. 102(b) as anticipated by Mori et al (4258516). The examiner states Mori figures 2-3 shows an interchangeable raised access floor panel comprising all features of the claimed invention including set screw (28) having a foot end. The applicant respectfully traverses the Examiner’s rejection on these grounds. Mori et al discloses pedestal support threaded rod (28) rather than a set screw. As described in Mori et al., “The upper and lower female screw threaded sleeves 22, 25 are of *left-handed and right-handed ones* and threadedly engaged with *right-handed and left handed upper and lower male screw*

*threads* 26, 27 provided on the upper and lower portions of [the] screw threaded rod 28 (emphasis added). *Id.* at Col. 4, 17 – 22. Thus, the threaded rod configuration of Mori et al is not a set screw within the ordinary meaning of the term, but is the pedestal head support rod having opposing threads as a turn-buckle assembly, in order to adjust the vertical height of the pedestal head (34) in relation to the subfloor.

As amended, the Applicant points out and particularly claims, in Claim 10, that the set screw, in accordance with the present invention, is “*single-handed...to operate the lower foot end to adjustably bias against an upper portion of the pedestal head member*”, including ones such as the elastic member (34), as described in Mori et al. Moreover, the present invention, when taken in combination with the Mori et al. description, assuming for the sake of argument that the examiner’s analogy of a set screw being the same as the threaded rod 28 of Mori et al is accurate, the set screw panel leveler in accordance with the present invention would constitute an additional threaded rod element, which is not disclosed in Mori et al.

**(Claim Objections)**

The Examiner had previously allowed Claim 11 on condition that it includes all limitations of the previously amended Claim 10 base claim upon which it was dependant. Claim 11 is amended so as to include those limitations, as requested by the Examiner.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

SCOTT L. TERRELL, P.C.



Scott L. Terrell, Reg. No. 35,709  
12970 W. 20<sup>th</sup> Ave. Ste. E  
Golden, CO 80401  
Telephone (303) 279-0705  
E-mail sltpcesq@aol.com